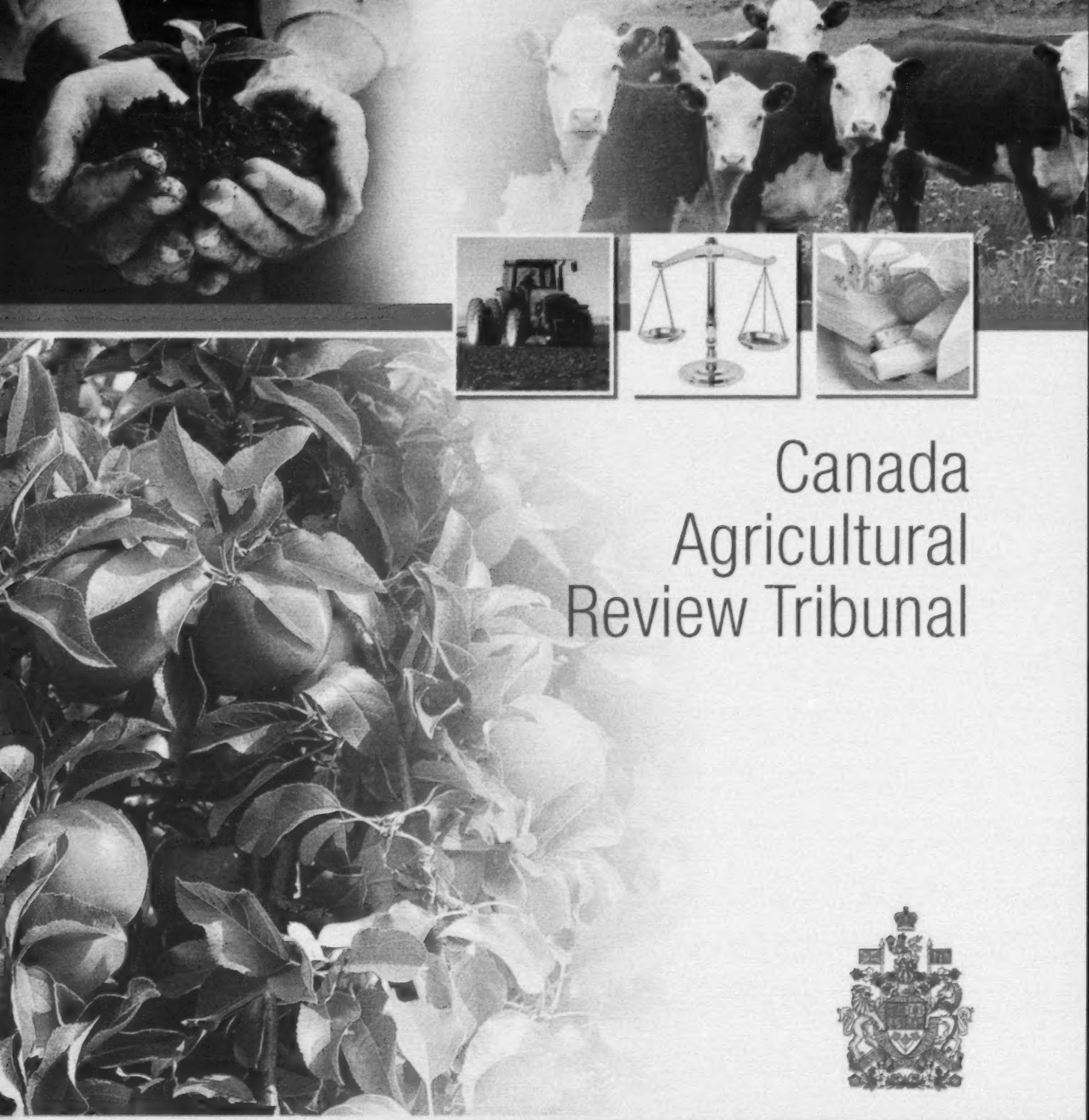

Canada Agricultural Review Tribunal

2013-2014
Annual Report

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Message from the Chairperson

I am delighted to provide this update on the activities of the Canada Agricultural Review Tribunal (Tribunal) through our 2013-2014 Annual Report, the sixth issued since my assuming the position of Chairperson on July 1, 2009. This report covers the activities of the Tribunal from April 1, 2013 to March 31, 2014.

Delivering Core Mandate and Other Activities

Despite its modest size, the Tribunal continues to successfully deliver its core mandate—timely and cost-effective review of notices of violation issued to Canadians by three federal agencies under the *Agriculture and Agri-Food Administrative Monetary Penalties Act (AMP Act)*. Tribunal personnel also continued four other key activities of the Tribunal in 2013-2014: (1) the modernization and streamlining of registry services, operations and administration; (2) the raising of awareness of the Tribunal's identity with stakeholders; (3) the development of best practices to inform parties of Tribunal operations and how to best present their cases before the Tribunal; and (4) the solidification of intra-governmental working relationships and the ongoing evaluation of Tribunal processes in order to enhance and facilitate the efficient operation of the Tribunal.

More Decisions and Reduced Backlogs

The Tribunal continues to issue more decisions and resolve more procedural matters arising from Tribunal cases than at any time in the past five years. In 2013-2014 the Tribunal was successful in reducing its existing backlog of cases as well as in speeding up the time required to complete the average Tribunal case. These efficiencies have come about, in large part, thanks to improved access for parties to online Tribunal resources to answer routine inquiries concerning Tribunal practices, more streamlined administrative and registry processes, better managed hearings, and quicker turnaround times from the date a file is ready for decision and the actual issuance of the Tribunal decision.

Continuity at the Tribunal

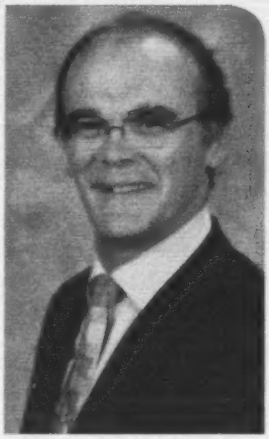
In December 2013, Agriculture and Agri-Food Minister Gerry Ritz announced the extension of my appointment as Chairperson to June 30, 2017. It is an honour and a continuing privilege to serve Canadians in my capacity as Chairperson and to promote new and innovative ways to make the Tribunal more accessible. Some recent innovations of the Tribunal include:

- publication and distribution of a "Guide for Self-Represented Litigants";
- new procedural changes to ensure that parties provide adequate details of their claims before proceeding to hearings; and
- completion of draft revisions updating the Tribunal's Rules of Procedure.

Dr. Donald Buckingham, Chairperson
June 30, 2014

About the Members of the Tribunal

Donald Buckingham (LL.B., Dip. Int. Law (Cambridge.), LL.D.)



Dr. Don Buckingham has been a private lawyer, government lawyer, law professor and consultant in the law of agriculture, food, and trade for the past 25 years. Since 2009, he has been Chairperson of the Canada Agricultural Review Tribunal. He also chairs the Heads of Federal Administrative Tribunals Forum.

Passionate about the various aspects of agriculture and food since growing up on a Saskatchewan farm, Don pursued his bachelor's degree at the University of Saskatchewan in French and Philosophy. During his degree, he worked in Senegal on an agriculture and reforestation project, which led him later to complete a master's degree in development studies at the Université de Liège in Belgium. He then went on to complete his Bachelor of Laws degree at the University of Saskatchewan, his master's degree in law at the University of Cambridge and his Docteur: Droit Public/Doctor of Laws jointly from the Université Montpellier 1 in France and the University of Ottawa.

Dr. Buckingham has taught full-time and part-time at several law schools across Canada, in Europe and in Africa. He has written both the 2009 and 2014 volumes of *Halsbury's Laws of Canada – Agriculture* and *Halsbury's Laws of Canada – Food* as well as having co-authored *Agriculture Law in Canada*. When he is not hearing cases or writing about agriculture or food, he might just be creating something tasty in the kitchen, putting to use his chef training from the Culinary Skills Program of Algonquin College (Ottawa).

Bruce La Rochelle (LL.B., Ph.D., C.P.A.)

Dr. Bruce La Rochelle is a part-time member of the Tribunal, appointed to a three-year term in June 2012. Dr. La Rochelle is a graduate in law from the Faculty of Law (Common Law Section), University of Ottawa, and has been a member of the Law Society of Upper Canada since 1978. Dr. La Rochelle practises law in association with an Ottawa law firm, in areas of law unrelated to his quasi-judicial Tribunal role. He also teaches part-time at the Telfer School of Management, University of Ottawa, and is qualified as a Chartered Professional Accountant.

In addition to his law degree, Dr. La Rochelle holds an M.B.A. from the Rotman School of Management, University of Toronto. His doctorate is from the Schulich School of Business, York University, where his thesis concerned causes of regulatory delay and regulatory inaction, both generally and as referenced to Canadian financial institution failures. He is also a graduate of St. Michael's College, University of Toronto.

Dr. La Rochelle's childhood was spent in Saskatchewan.

Section 2: The Tribunal and What it Does

What is the Tribunal?

Vision

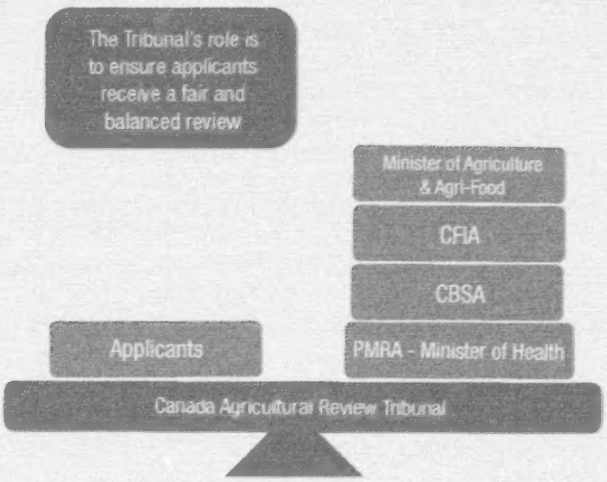
The vision of the Tribunal is to safeguard the integrity of the administrative monetary penalties system used by federal agencies to ensure compliance with agriculture and agri-food statutes. The Tribunal seeks to balance the rights of Canadians receiving such penalties with the responsibilities of federal regulators who issue the penalties to protect human, animal and plant health and the vibrancy and sustainability of Canadian agriculture.

Mission

The mission of the Tribunal is to provide an independent, fair, informal and timely review of the validity of administrative monetary penalties issued to any person by a federal Agency under the *AMP Act*.

The Tribunal's **values:**

accessibility, accountability, diligence, effectiveness, efficiency, fairness, integrity, risk management, stewardship, timeliness, and transparency


The Tribunal's role is to ensure applicants receive a fair and balanced review
Minister of Agriculture & Agri-Food
CFIA
CBSA
Applicants
PMRA - Minister of Health
Canada Agricultural Review Tribunal

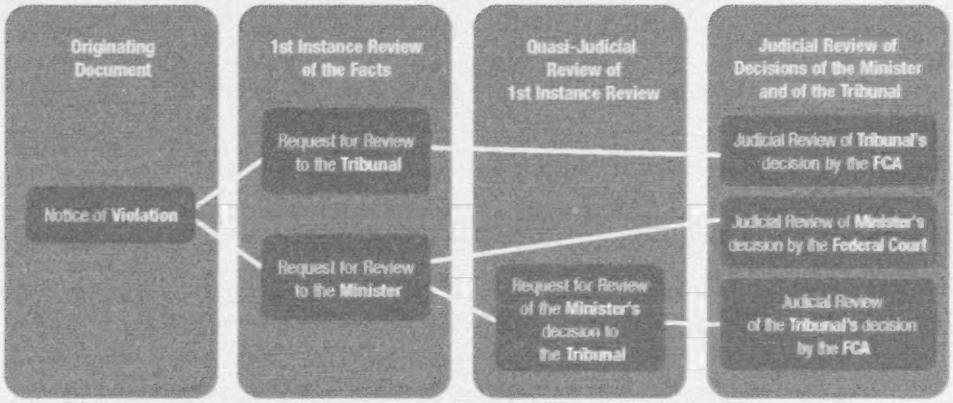
Mandate

The Tribunal is an independent, quasi-judicial body established by Parliament under the *Canada Agricultural Products Act* and the *AMP Act*. It maintains an arm's length relationship from Agriculture and Agri-Food Canada and Health Canada and their Ministers. Each member of the Tribunal is appointed for a fixed term and may not be employed in the federal public service. The Tribunal is also a court of record and has an official seal that is subject to judicial notice.

The Tribunal's primary role is to provide independent oversight through the exercise of its review powers over federal agencies' and Ministers' enforcement of agriculture and agri-food administrative monetary penalties (AMPs) against persons for agriculture and food violations. Federal agencies, including the Canadian Food Inspection Agency (CFIA), the Canada Border Services Agency (CBSA) and the Pest Management Regulatory Agency of Health Canada (PMRA), use AMPs in conjunction with other enforcement measures to provide expeditious, non-punitive means to promote regulatory compliance. The Tribunal provides oversight of the use of AMPs by giving alleged violators a forum to challenge the validity of the penalties levied against them.

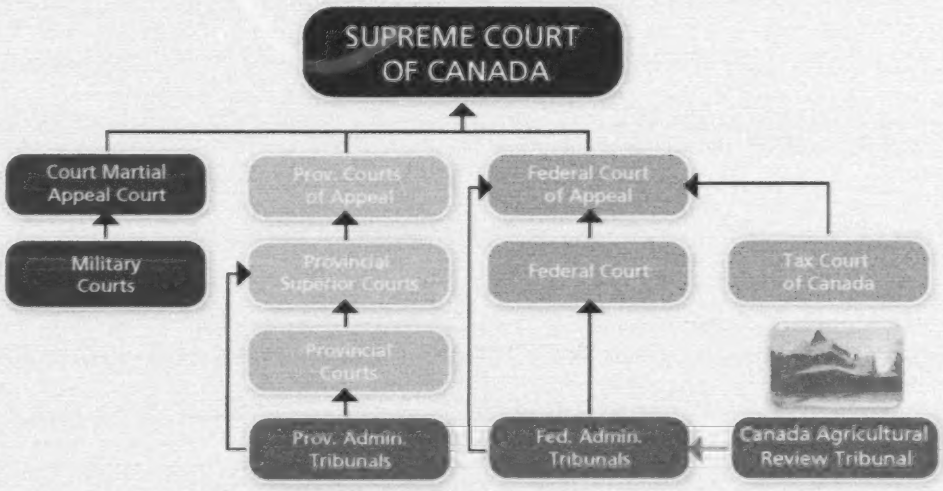
The Tribunal@Work – Notices of Violation, Reviews and Reviews of Reviews

The Tribunal performs two different types of review depending upon whether an applicant, after receiving a Notice of Violation (NOV), chooses to have the appropriate Minister review the NOV, or to have the Tribunal review the NOV. In the first circumstance, the Minister will review the facts of the case (first instance review), after which the applicant may choose to have the Minister's decision reviewed by the Tribunal or, at least hypothetically, by the Federal Court. In the second instance, the Tribunal will perform a first instance review of the facts and issue its decision as to the validity of the NOV. However, both types of review undertaken by the Tribunal may then be subject to judicial review by the Federal Court of Appeal (FCA).

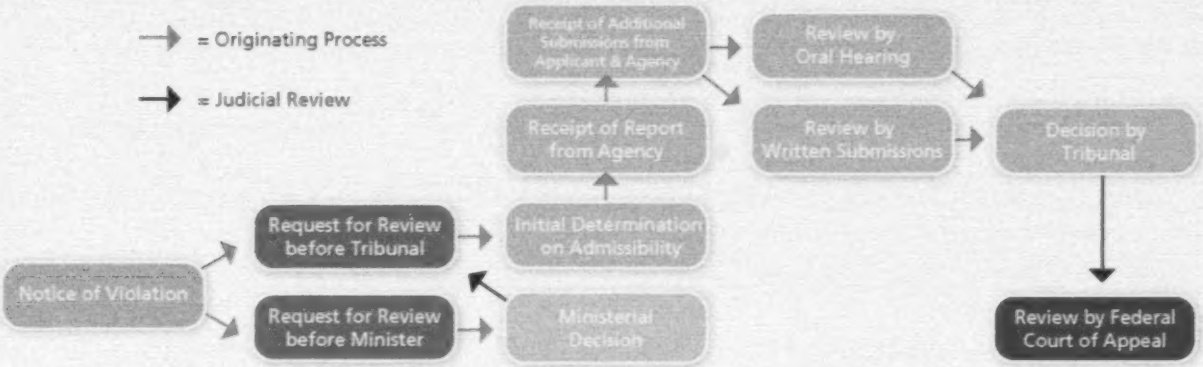

Originating Document
Notice of Violation
1st Instance Review of the Facts
Request for Review to the Tribunal
Request for Review to the Minister
Quasi-Judicial Review of 1st Instance Review
Request for Review of the Minister's decision to the Tribunal
Judicial Review of Decisions of the Minister and of the Tribunal
Judicial Review of Tribunal's decision by the FCA
Judicial Review of Minister's decision by the Federal Court
Judicial Review of the Tribunal's decision by the FCA

The Tribunal in the Canadian Legal System

The Tribunal operates within the family of federal administrative tribunals. These different tribunals provide oversight concerning many different government interactions. For individuals faced with federal food and agriculture enforcement measures, the Tribunal provides a cost-effective and informal legal process, so that Canadians have access to a fair and impartial legal forum in which to address concerns they may have with this system. All decisions of the Tribunal are reviewable by the FCA.



Stages in a Case Coming Before the Tribunal


= Originating Process
= Judicial Review
Receipt of Additional Submissions from Applicant & Agency
Review by Oral Hearing
Receipt of Report from Agency
Review by Written Submissions
Decision by Tribunal
Request for Review before Tribunal
Initial Determination on Admissibility
Notice of Violation
Request for Review before Minister
Ministerial Decision
Review by Federal Court of Appeal

Authorized Locations for Tribunal Hearings

Province	Hearing Locations
British Columbia	Castlegar - Cranbrook - Fort Nelson - Fort St. John - Kamloops - Kelowna - Nanaimo - New Westminster - Penticton - Prince George - Prince Rupert - Vancouver - Victoria - Williams Lake
Alberta	Calgary - Edmonton - Grand Prairie - Jasper - Lethbridge - Medicine Hat - Red Deer - Wainwright
Saskatchewan	Estevan - Prince Albert - Regina - Saskatoon - Swift Current - Yorkton
Manitoba	Brandon - Dauphin - Morden - Winnipeg
Ontario	Barrie - Belleville - Brampton - Brockville - Cornwall - Hamilton - Kenora - Kingston - Kirkland Lake - Kitchener - London - Niagara Falls - North Bay - Ottawa - Owen Sound - Pembroke - Peterborough - Sarnia - Sault Ste. Marie - St. Catharines - Sudbury - Thunder Bay - Timmins - Toronto - Windsor
Quebec	Baie-Comeau - Chicoutimi - Drummondville - Granby - Malbaie - Matane - Montréal - Quebec City - Rimouski - Rivière-du-Loup - Rouyn-Noranda - Saint-Jovite - Sept-Îles - Sherbrooke - Thetford Mines - Trois-Rivières - Val-d'Or - Valleyfield
New Brunswick	Bathurst - Campbellton - Edmundston - Fredericton - Moncton - Saint John
Nova Scotia	Digby - Halifax - Liverpool - New Glasgow - Springhill - Sydney - Truro
Newfoundland	Corner Brook - Gander - St. John's
P.E.I.	Charlottetown - Summerside
Yukon	Whitehorse
Northwest Territories	Yellowknife
Nunavut	Iqaluit

Section 3: The 2013-2014 Year in Review

The core activity of the Tribunal is to provide a quasi-judicial review of an applicant's request for review of: (a) an Agency's Notice of Violation; or (b) a Minister's Decision regarding the validity of a Notice of Violation issued pursuant to the *Agriculture and Agri-Food Administrative Monetary Penalties Act and Regulations*.[1]

While the bulk of the Tribunal's core mandate concerns the provision of quasi-judicial reviews of administrative monetary penalties, the Tribunal must also engage in important ancillary activities which relate to identity, outreach and education activities, the development of best practices, the building of relationships and evaluating performance, and, the carrying out of management functions. In the pages that follow, each of these Tribunal activities will be presented in terms of accomplishments in 2013-2014.

Building Relationships and Evaluating Performance
Managing Registry Services, Operations and Administration
MAKING QUASI-JUDICIAL DECISIONS
Developing Best Practices
Enhancing Tribunal Identity

1. Making Quasi-judicial Decisions

As identified above, the primary role of the Tribunal is to make quasi-judicial decisions concerning the validity of administrative monetary penalties (AMPs) and warnings issued by the CFIA, CBSA and PMRA when they enforce agriculture and agri-food related rules and regulations. In this decision-making process, there are several steps including the Tribunal's initial determination on admissibility,[2] its responses to procedural requests from the parties, reviewing parties' written submissions, holding a hearing, and finally the writing and issuance of a final decision. Throughout all of these steps, the Tribunal seeks to provide a fair, effective and efficient process that takes into account the facts of the case from both prospective parties as well, as the applicable law.

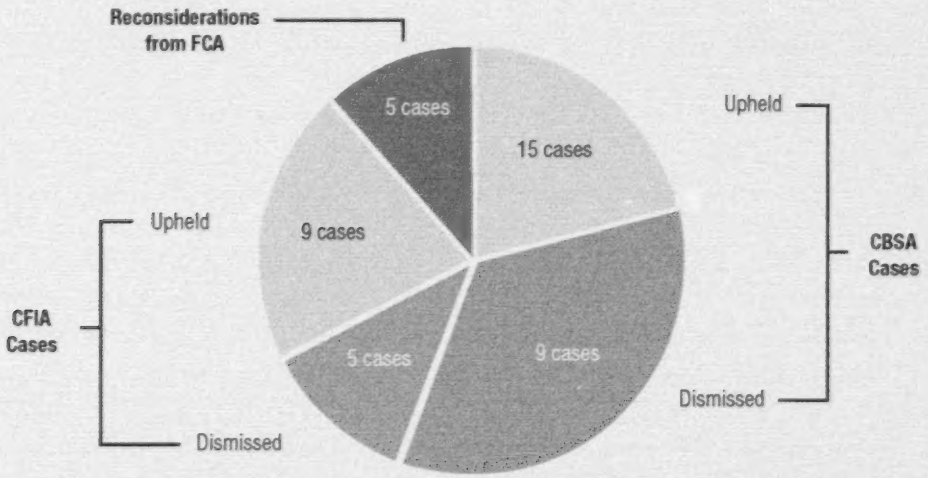
This past year, the Tribunal managed a caseload of 111 cases, of which 101 were found to be admissible. In the administration of these cases, the Tribunal oversaw 106 procedural matters, such as requests for extensions of time to file documents, requests for adjournments and requests for summons to require the attendance of witnesses at hearings. The overall number of cases and of procedural motions remains consistent with the caseload of last year. However, with the concerted effort of two decision-makers and the Tribunal's staff, the Tribunal has been able to reduce the backlog of outstanding cases at year-end from 74 at March 31, 2013 to 46 at March 31, 2014. This represents a substantial reduction in outstanding cases and will lead to shorter wait times to hear and resolve cases in the future.

1. The Tribunal also can be requested to review decisions of the Board of Arbitration; however, such a request has not been made in over 10 years and to the knowledge of the Tribunal, the Board of Arbitration is currently unstaffed.
2. For more information, please refer to Practice Note # 11 - Determining Admissibility of Requests for Review and Practices Regarding the Exchange of Documents Amongst Applicants, Respondents and the Tribunal.

Decisions

In the fiscal year 2013-2014, the Tribunal issued 43 decisions, up 13 decisions from the 30 issued in 2012-2013. Of these 43 decisions, 38 involved new applicant requests for review stemming from federal Agency enforcement action (24 from CBSA-issued Notices of Violation and 14 from CFIA-issued Notices of Violation) while the remaining 5 decisions were reconsiderations of prior Tribunal decisions following directions from the Federal Court of Appeal. Of the 38 new case decisions issued, the Tribunal upheld the Agency's Notice of Violation 63% (24 of 38) of the time while 37% (14 of 38) of the time, the Tribunal dismissed the Agency's case (that is, it granted the applicant's request) holding that the Agency had not, on the balance of probabilities, proven the validity of Notice of Violation in question. Almost 3/4 of the applicants chose English as opposed to French as the language of the proceeding before the Tribunal. Of the proceedings that were subject to decisions this year, 25 of the 43 cases proceeded by oral hearing while the other 18 applicants elected to proceed by written submissions alone.

Tribunal members travelled a collective 29,548 kilometers in 2013-2014 in order to conduct 22 oral hearings in 13 cities.



Tribunal decisions in 2013-2014 upholding or dismissing Notices of Violation issued by Agencies to alleged violators

Below are a few sample cases from this year:

***Lloyd v. Canada (Canada Border Services Agency)*, 2013 CART 21**

Upon returning from holidays in the United States, Mr. Lloyd was issued a Notice of Violation with an $800 penalty under the *AMP Act* and the *Health of Animals Regulations*. It was alleged that Mr. Lloyd, accompanied by his wife and their dog Hunter, had failed to declare the live dog on their Customs Declaration form and present the animal to inspectors. It was revealed, however, in their written submissions that the Lloyds had maintained all of the

appropriate paperwork and a porter had been pushing the dog up to the inspection station. The Tribunal dismissed the violation holding that the CBSA had failed to produce sufficient evidence to prove all the elements of the alleged violation.

***LinkGlobal Food Inc. v. Canada (Canadian Food Inspection Agency)*, 2013 CART 22**

The applicant was issued a Notice of Violation with an $11,000 penalty under the *AMP Act* and the *Health of Animals Act*. Evidence in the case showed that CFIA inspectors found 20 boxes of processed pork legs in LinkGlobal's shipment of food items arriving from China. When LinkGlobal was contacted by the CBSA, an employee provided the necessary import documentation, which included two invoices. The invoice in English did not list pork legs. However, the invoice in Chinese did list the offending product. During the hearing, LinkGlobal's president indicated that he was aware that pork legs were not allowed to be imported into Canada and when he noticed that the pork legs were going to be shipped to his company, he notified his supplier in China and was told that the supplier would take care of it. However, as evidence showed that the company's president never followed up with his supplier, nor did he notify the CBSA of the possibility that pig legs may be shipped into Canada, the Tribunal found that the CFIA had proven all the elements to support the Notice of Violation. On this basis, the Tribunal upheld the CFIA's Notice of Violation and ordered LinkGlobal to pay the penalty.

***Finley Transport Limited v. Canada (Canadian Food Inspection Agency)*, 2013 CART 42**

The applicant, a transporter of hogs, was issued a Notice of Violation and a $6,000 penalty under the *AMP Act* and the *Health of Animals Regulation* for allegedly transporting hogs in overcrowded conditions that were likely to cause injury or undue suffering. The hogs had been transported over several hours, on a hot summer day, and then remained in the transport for in excess of twenty minutes, prior to being unloaded. The hogs were in a highly distressed state while waiting to be unloaded, and four of the hogs died from what was later concluded by the CFIA veterinarian, and accepted by the Tribunal, to be heat exhaustion. The Tribunal held that overcrowding was ultimately a question of fact, referenced to the case particulars, and apart from any guidelines. The Tribunal also held that the action of the transporter's employee, in doing nothing to alleviate the condition of the hogs while they were in a highly distressed state, was of such gross negligence as to amount to an intentional act, for which the transporter was vicariously responsible. The Tribunal emphasized that, in coming to such a conclusion, there was no imputation of bad faith in relation to the management of the transporter.

***Greidanus Poultry Service Ltd. v. Canada (Canadian Food Inspection Agency)*, 2013 CART 28**

The applicant was issued a Notice of Violation, with a monetary penalty of $6,000, for allegedly having loaded chickens in a way likely to cause injury or undue suffering under the *Health of Animals Regulations*. When a shipment of 9599 chickens arrived for slaughter, 334 were found dead on their backs, with the CFIA claiming that the chickens died due to being loaded into the crates on their backs. This was disputed by the applicant

who stated that a chicken that dies from a heart attack often ends up on its back. After having heard expert testimony from both sides, the Tribunal found that the CFIA failed to prove all of the essential elements of the violation and dismissed the violation. Subsequently, the CFIA applied to the Federal Court of Appeal for judicial review of this decision, but later chose to withdraw its application.

Oversight by the Federal Court of Appeal

Three judicial reviews (JRs) of Tribunal decisions that had commenced during the fiscal year 2012-2013 were still outstanding at the beginning of fiscal year 2013-2014. As well during the year, 10 new JRs of Tribunal decisions were made by parties who had been unsuccessful before the Tribunal. Of these 13 JR applications, 11 were brought by government agencies (seven by the CBSA, four by the CFIA) with the remaining two brought by individual applicants. During the course of the year, three of these JRs were withdrawn by the agency that filed them. As well, four of the 13 had not been decided by the Federal Court of Appeal at the end of the fiscal year 2013-2014.

Of the six remaining JRs, the Federal Court of Appeal issued decisions providing the parties and the Tribunal with clarification on a number of legal points including: third party intervention and its effect on the validity of a Notice of Violation (*Castillo* and *El Kouchi* cases), as well as what constitutes a "declaration" under Canadian importation law (*Forgeot* case). It is also important to note that on April 17, 2014, just after the end of fiscal year 2013-2014, the FCA in the case of *Canada (Attorney General) v. Vorobyov,* 2014 FCA 102, issued a significant JR decision upholding the Tribunal's decision finding that the Minister of Public Safety and his staff is without legal authority to review requests for review under the current AMPs regime.

***Canada Border Services Agency v. Castillo,* 2013 FCA 271; *and Canada v. (Attorney General) El Kouchi,* 2013 FCA 292**

In two related cases, travellers returning to Canada were issued Notices of Violation with a monetary penalty of $800 under the *Health of Animal Regulations* for importing meat or milk products. Based on the evidence presented by the travellers at their respective Tribunal hearings, the Tribunal was convinced that neither party had any knowledge that a family member had placed the undeclared product in the traveller's luggage. Consequently, in both cases, the Tribunal found the issuance of the NOV invalid as neither traveller had been given a reasonable opportunity to claim the product before he was issued the NOV by CBSA inspectors and that as a result, the causal link between the action of a third party and of the alleged violator could not be made out by the CBSA. The CBSA sought judicial review of these decisions. The Federal Court of Appeal held, in each of the cases, that the CBSA is not required to provide passengers the opportunity to justify an importation of animal by-products after they are discovered. Passengers are responsible for the contents of their bags and can be issued a Notice of Violation, regardless of whether they knew of these contents or not. The FCA ordered that the cases be sent back to the Tribunal for reconsideration, on the basis that the parties had committed the violations as alleged.

***Canada (Attorney General) v. Savoie-Forgeot*, 2014 FCA 26**

Ms. Savoie-Forgeot was a flight attendant who travelled regularly between Canada and Paris, during the course of her employment. She would often bring back French food products on her return to Canada. On one return flight, she presented detailed receipts for items she had purchased in France, in addition to answering "Yes" on the declaration card, in relation to the importation of food products. There was a dispute between Ms. Savoie-Forgeot and CBSA personnel as to whether she had completely declared all items. Following an oral hearing, the Tribunal held that, having presented her receipts to Agency inspectors, in addition to answering truthfully on the declaration card, Ms. Savoie-Forgeot was entitled to a reasonable opportunity to explain to CBSA inspectors the nature of her purchases, prior to being issued a Notice of Violation at a later stage. The Tribunal therefore found that Ms. Savoie-Forgeot had not committed the violation. Following an application by the CBSA to the Federal Court of Appeal for review of the Tribunal's decision, the Federal Court of Appeal held that there was no obligation on the CBSA to provide Ms. Savoie-Forgeot with a "reasonable opportunity to justify the importation". However, the Court used the case to clarify the meaning of the term "importation". The Court held that if Ms. Savoie-Forgeot had made her items available for inspection, having truthfully acknowledged that she was bringing food products into Canada, it was incumbent on the CBSA to inspect the items at that time and to exercise its right to seize any items not permitted into Canada. Once this first stage of declaration and inspection was completed, a permitted importation of any unseized items is considered to have occurred. If her declaration was both truthful and complete at the initial or primary inspection, Ms. Savoie-Forgeot could not, at a later or secondary inspection, be subject to a valid Notice of Violation. The Court therefore ordered that the case be remitted to the Tribunal for reconsideration on this basis.

***Canada (Attorney General) v. Vorobyov*, 2014 FCA 102**

Although this case was decided by the Federal Court of Appeal just after the close of the federal fiscal year, this decision has important implications for the actions of the agencies issuing Notices of Violations and on the powers of the Tribunal in the review of such Notices. Mr. Vorobyov brought into Canada an undeclared lotion for his feet. The CBSA found it upon inspection of his luggage and decided that the lotion was an animal product and, as a result, issued a Notice of Violation with a monetary penalty of $800 under the *Health of Animal Regulations*. In the alternative to seeking a review by the Tribunal of the Notice of Violation, Mr. Vorobyov requested a review of this decision before the Minister. Several months later, the Minister of Public Safety issued a decision upholding the validity of the NOV. Mr. Vorobyov then sought a review of the Minister's review. Following decisions it had made in two earlier cases, the Tribunal held that the Notice of Violation was invalid, as the legislation provided that the minister to conduct such reviews be the Minister of Agriculture and Agri-Food. On this basis, the Tribunal declared the Notice of Violation to be null and void. The CBSA sought judicial review of this decision. The Federal Court of Appeal upheld the Tribunal's finding that the Minister of Public Safety was without legal authority to conduct first instance reviews of Notices of Violation. However, the Federal Court of Appeal directed the Tribunal that it (the Tribunal) lacked the jurisdictional power to declare a Notice of Violation null and void. As a result, the Federal Court of Appeal ordered the Tribunal to remit the request for review to the Minister specified in the legislation, that is, the Minister of Agriculture and Agri-Food, in order for this Minister to make the first instance decision regarding the validity of the NOV initially given to Mr. Vorobyov.

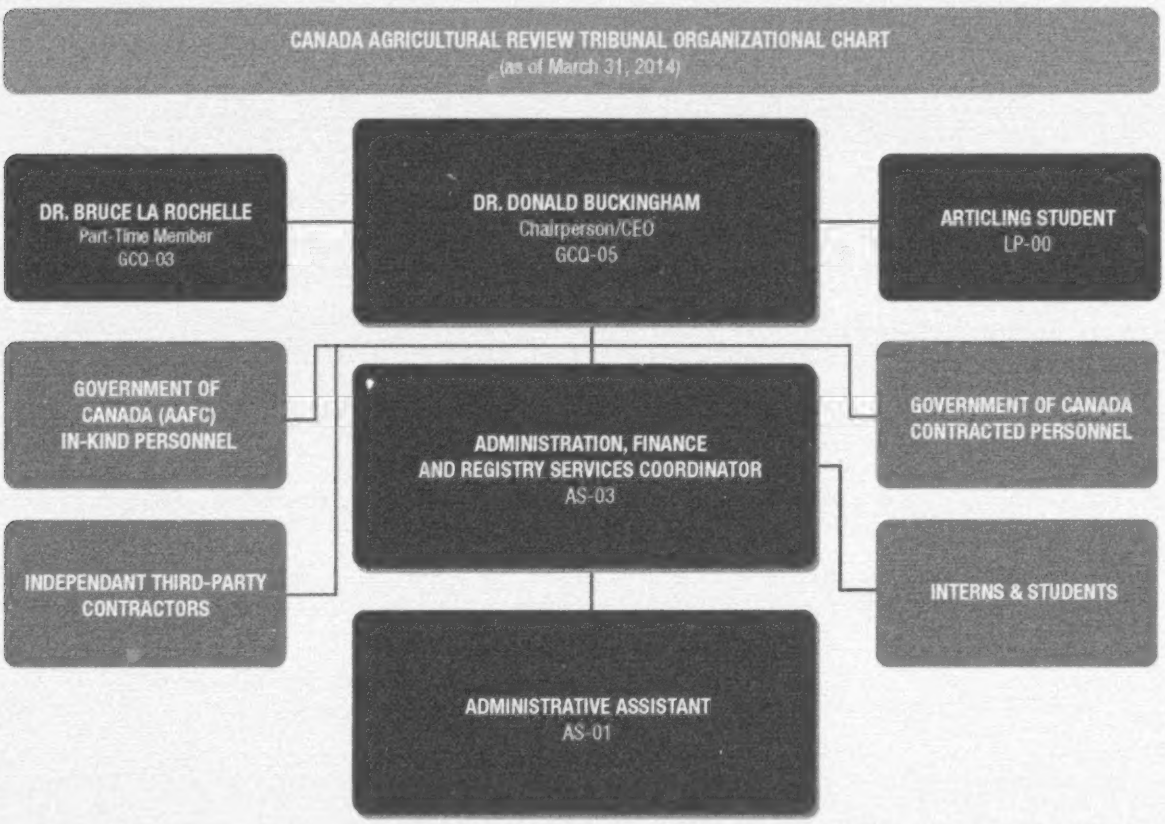
2. Managing Registry Services, Operations and Administration

Streamlining at the Tribunal

In 2013-2014, a major structural innovation at the Tribunal involved the streamlining of the central services of the Tribunal. Due to staff changes and corporate reorganization, three positions which had formerly existed for registry, financial and administrative services were telescoped into two: the new position of coordinator of administration, financial and registry services and an administrative assistant. This streamlining has increased the centralization and rationalization of tasks to be completed, and resulted in operating efficiencies. As well in 2013, the Tribunal introduced two new procedures to help parties better prepare their cases before the Tribunal. On May 1, 2013, the Tribunal adopted a new procedure for applicants to more fully set out their case following Tribunal directives set out in its Practice Note #11 "Determining Admissibility of Requests for Review and Practices Regarding the Exchange of Documents Amongst Applicants, Respondents and the Tribunal". Self-represented litigants before the Tribunal were also offered a new resource in 2013 – the Tribunal's "Guide for Self-Represented Litigants" – in the preparation of their cases.

New Organizational Chart

Corresponding to the streamlining of central services of the Tribunal, an updated organisational chart was approved which reflects both the individuals employed by the Tribunal, as well as external actors that are necessary to support the efforts of the Tribunal. As a very small federal tribunal, CART relies on these external actors, both from government and the private sector, to deliver its core mandate and related services.



3. Enhancing Tribunal Identity, Outreach and Education

Tribunal Identity

Since 2009, Tribunal personnel have availed themselves of all opportunities to raise and solidify the profile of the very small and relatively unknown Canada Agricultural Review Tribunal. After five years, this effort has largely succeeded with the Tribunal now firmly identifiable within the federal family of administrative tribunals, in the larger federal government, and in Canada in general. The Tribunal Chairperson currently chairs the Heads of Federal Administrative Tribunals Forum and this year acted as the co-President of the national 2014 Symposium of the Council of Canadian Administrative Tribunals held in Gatineau, QC, June 1-3, 2014. The Tribunal continues to advance its identity at www.cart-crac.gc.ca, as well as through print media and social media, in order to enhance its identity in Canada.

Outreach

The Tribunal has increasingly leveraged social media and its website in order to provide as much information as possible to stakeholders about its practices and procedures. With the appearance of numerous profiles in national and industry news this year, more Canadians can access and engage with the operations of the Tribunal. With the addition of a "Guide for Self-Represented Litigants" and continuing initiatives to make its services more available for all users, the Tribunal continues to strive to be inclusive, accessible and cost-effective. As part of its continuing outreach to parties appearing before the Tribunal, three additional Practice Notes (Practice Note #13: January 1, 2014 – Raising a Constitutional Question or "Charter Challenge"; Practice Note #12: May 21, 2013 – Purpose of an Oral Hearing and Rights of Parties; Practice Note #11: May 1, 2013 – Determining Admissibility of Requests for Review and Practices Regarding the Exchange of Documents Amongst Applicants, Respondents and the Tribunal) have been released by the Tribunal and added to our resources available at the Tribunal website. These Practice Notes reach out to Tribunal stakeholders to assist them in better understanding and preparing key procedural and substantive aspects of their cases before the Tribunal.

Education

As the practice of law is ever-changing and the role of the Tribunal continues to progress, obtaining education for Tribunal personnel and providing educational opportunities at the Tribunal continues to be of the utmost importance for Tribunal members and staff.

This year Tribunal personnel attended programs to advance career goals, meet continuing education requirements and enhance legal knowledge. Chairperson Buckingham attended the Society of Ontario Adjudicators and Regulators Annual Conference, as well as the 2013 Council of Canadian Administrative Tribunals national conference, both held in Toronto. Member La Rochelle attended, via videoconference, the 9th Annual National Forum on Administrative Law and Practice, presented by the Professional Development Services of Osgoode Hall Law School. In addition, Chairperson Buckingham, Member La Rochelle and the Tribunal's articling student, Zack Shaver, attended via videoconference, various portions of the webinar series "Ethics in Administrative Justice", co-sponsored by Professional Development Services of Osgoode Hall Law School and the Society of Ontario Adjudicators and Regulators. Zack Shaver also attended the Canadian Bar Association's 2013 Administrative Law, Labour and Employment Law Conference. Registry, Administration and Financial Services Coordinator, Lise Sabourin, completed a series of drafting, editing and linguistic courses at the University of Ottawa.

Students

Again this year, the Tribunal had the distinct good fortune of welcoming a full complement of student interns as part of its Tribunal-Internship Program. A total of five interns, plus the Tribunal's first articling student, contributed to the professional work of the Tribunal in myriad different capacities. Mr. Jonathan Sampson, a student from the University of Ottawa, contributed significantly to the "Guide for Self-Represented Litigants" (Guide) and last year's annual report. Mr. Alexandre Lillo, as part of a required externship came from Montpellier, France to perform research on his Master's thesis, worked on the French versions of the Guide and last year's annual report. Ms. Paloma Corrin and Ms. Theresa (Wooyeon) Choi, as part of their "Federal Tribunals Seminar" course at the University of Ottawa, spent the fall semester and the spring semester, respectively, with the Tribunal one day per week. While both completed a variety of tasks at the Tribunal, each also completed a research paper of interest to the Tribunal. Ms. Corrin wrote on a proposal for regulation of on-farm animal humane treatment and Ms. Choi completed an analysis of common law defences that would be permissible in conjunction with section 18 of the *AMP Act*. Finally, Mr. Jamil-Daniel Beauchamp-Dupont, of the University of Ottawa, spent the January semester with the Tribunal, completing a full inventory of all Tribunal cases from 2000 onwards that have been the subject of judicial review at the Federal Court of Appeal. These students, full of enthusiasm and innovative ideas, bring energy to the Tribunal, while receiving practical work experience in a real-life administrative tribunal setting. Here are some of their comments concerning their experiences at the Tribunal.

"Working at the Canada Agricultural Review Tribunal was both an incredibly challenging and enriching experience! Learning and development opportunities abounded, from agricultural to constitutional law. The CART team provided me with a warm and comfortable work environment that I found quite motivating, while also helping me to create excellent quality work. My studies in water law, while working at the Tribunal were transformational in shaping my future professional aspirations. Working in a collegial atmosphere, in a 19th century Victorian home placed on 650 hectares of park land; there are few things that I can think of that would have made me so productive, conscientious and feel right at home!"

-Alexandre Lillo, Extern, Spring/Summer 2013

"My experience at the Tribunal provided me with the valuable work experience needed to pursue graduate studies and obtain post-graduate employment. CART's small staff and focused mandate provided me with a fantastic hands-on opportunity to learn about the mechanics and inner-workings of a governmental organization. Interning was both interesting and enjoyable; I highly recommend it to any student."

- Jonathan Sampson, FSWEP Student, Summer 2013

"My internship with the Canada Agricultural Review Tribunal (CART) offered me incredible practical experience. Through the interesting assignments, and observation of the impeccable teamwork in the office, I was able to gain invaluable insight into Canadian administrative law, as it relates to regulating agriculture and food. My experience at the Tribunal truly reflected the reality of the day-to-day practice in a Tribunal concerned about real people and practical issues rather than the generally theoretical education I am exposed to in classes. Spending my days in the cozy office in the beautiful historical building was a pleasure, as the environment was as warm and friendly as could be with the small family-like CART team that welcomed me with open hands. I could not have asked for a better internship and I cannot thank them enough for the opportunities that they gave me. Without a doubt, the internship at the CART was an experience I will never forget."

-Theresa (Wooyeon) Choi, Intern, Spring 2014

Reflections from the Tribunal's First Articling Student

"As the first articling student at the Canada Agricultural Review Tribunal, I wasn't entirely certain what to expect over the ten months that I would be spending on the Central Experimental Farm. What I didn't expect was the level and number of projects I would be working on, from preparing briefing memos on Members' cases, to administrating pre-hearing conferences, to helping draft new legislation.

Working in a small office, six people when we are a full house, my workload often consisted of whatever was most pressing at the time, be that proofing a webpage, writing a practice direction or helping to write this Annual Report! This being said, Dr. Buckingham was incredibly receptive to tailoring my articling experience to my interests and supporting an environment of scholarly discussion. What really stands out during my articling experience, however, was the opportunity to meet and interact with many of the Tribunal's stakeholders. Working with other lawyers, representatives from government, concerned Agencies, as well as the general public, has been a truly eye-opening experience. It is often easy to overlook the human component of law, as clients, or in the Tribunal's case, parties and stakeholders, may never meet face-to-face. These people were fantastically supportive of the process and respectful of all parties concerned and I must say that it was a pleasure to have worked in my own small way to support them."

- Zackery Shaver, Articling Student, 2013-2014

4. Developing Best Practices

The Tribunal has been working tirelessly to promote and adopt best practices. Over the course of this year, this has included the introduction of three Practice Notes, the decision to continue indefinitely the electronic filing of documents, the creation of a Tribunal Twitter account and, most importantly, the introduction of the Tribunal's "Guide for Self-Represented Litigants".

Guide for Self-Represented Litigants

CART's "User Guide for Self-Represented Litigants" (Guide) represents the fruit of almost four years' of work to create an authoritative and self-contained guide on initiating a Request for Review before the Tribunal and then navigating this Request through the entire process at the Tribunal. The Tribunal has been including copies of the Guide with its initial communications with applicants and has received significantly positive results. Anecdotally, the quality of representations made by self-represented applicants has increased dramatically with the publication of the Guide, while it appears that the number of procedural motions has also increased in conjunction with this increased awareness.

Notably, the Guide includes detailed explanations about what options and services are available to potential applicants, while seeking to answer many of the common questions received by the Tribunal, from the nature of an NOV to the procedure surrounding an oral or written Request for Review. The Guide also includes examples of acceptable Requests for Review and Letters of Representation. These examples, it is anticipated, will provide some guidance and encouragement that good legal arguments need not be overly technical or lengthy.

As an evergreen document, the Tribunal intends to amend the Guide as necessary, in order to make the product as accessible as possible for all self-represented individuals. To this end, the Tribunal expects in the future to be able to add a short survey or feedback form to assess user experience with the Guide.

Three More Practice Notes

As part of the development and dissemination of best practices, the Tribunal continues to reach out to parties appearing before the Tribunal. This year three new Practice Notes (discussed above in the "Outreach" section of this Report) have been released by the Tribunal and added to our resources available at the Tribunal website.

5. Building Relationships and Evaluating Performance

Important to the smooth operation of the Tribunal is the network of relationships built between the Tribunal and its stakeholders in governmental and non-governmental positions. While the Tribunal is an independent, arm's length entity, it does not exist in a vacuum. The Chairperson continues to nurture necessary structural connections with the Ministry of Agriculture and Agri-Food with respect to the delivery of certain of its "back-office" functions and to cultivate relationships in the federal administrative tribunal community and beyond. With the Tribunal's "back-office" functions likely to move away from the Ministry of Agriculture and Agri-Food in the next fiscal year (see section below "Creation of the Administrative Tribunals Support Service of Canada"), the Chairperson has been actively cultivating relationships to assist in a smooth transition from one service provider to another. He is also active in several groups working in federal and national bodies of administrative law including the Heads of Federal Agencies, the Heads of Federal Administrative Tribunals Forum, the Council of Canadian Administrative Tribunals and the Society of Ontario Adjudicators and Regulators.

As in previous years, the Tribunal opened its doors to students wishing to conduct an evaluation of the Tribunal's activities in order to meet the requirements of their program. This year, one of the Tribunal's former interns, Jonathan Sampson along with his student colleagues Mich Ryan-Aylward, Sophie Solti and Cody Welton, all of whom are completing their Masters of Public Administration degree at Queen's University School of Policy Studies, undertook a study to assess the effectiveness of the administrative monetary penalties (AMP) regime and its implementation as it relates to the Canadian Food Inspection Agency and to the Tribunal. The students, among other things, conducted interviews of key players, including the Chairperson of the Tribunal in order to collect data for analysis. The full text of the Queen's University student study entitled "From Farm to Fork: Regulating the Agriculture and Agri-Food Administrative Monetary Penalties Act" is available upon request from the Tribunal or electronically at its website.[3]

3. Their Report is accessible at: www.cart-crac.gc.ca.

Section 4: Opportunities and Challenges

Each year, a suite of challenges and opportunities awaits all government entities. The Canada Agricultural Review Tribunal is no exception. Here are some such challenges and opportunities likely to be felt in the coming fiscal year 2014-2015.

An Increasing Tribunal Caseload

It is likely that the Tribunal will see a new increase in its caseload in the short to medium term. One reason for this anticipated increase is that proposed legislation will raise the dollar amounts for administrative monetary penalties for agriculture and food violations. Proposed legislation introduced in the House of Commons in December of 2013 will increase maximum monetary penalties under the *AMP Act* from $15,000 to $25,000. When such penalties were increased in 2010, the number of requests for review to the Tribunal from applicants receiving higher-value Notices of Violation spiked. Of course, an important and yet unanswered question will be the date when the new legislation will come into force, which in turn will determine when higher volumes of cases can be expected to flow into the Tribunal. Another dimension of an increasing caseload is that new legislation also will increase the instances where AMPs can be issued, both in terms of new activities and new actors that will fall under the ambit of AMPs enforcement. As part of ongoing improvements and in anticipation of any such caseload increases, Tribunal personnel will continue to examine processes that will enable them to carry out the Tribunal's core mandate in the most efficient and fair way possible.

More French Language Cases

Another trend in the Tribunal's caseload is the increasing number of Requests for Review that are filed selecting French as the language of the proceedings. Given Canadian statistics along linguistic and agricultural activity lines, one could expect 25% to 35% of the cases that the Tribunal received would elect French as the language of proceedings. Instead, this number has now surpassed 50% and is inching up to the 65% range with the remainder in English. This is a dramatic reversal of trends from prior years. As a result, in the coming year there will be increased pressure on Tribunal resources to conduct its operations and produce its procedural and final decisions in French for the majority of the time.

Continuous Improvement at the Tribunal

The Tribunal will continue to develop and offer parties appearing before it tools and mechanisms to assist them in presenting their cases succinctly and in a timely manner. One important step in this direction will be the anticipated coming into force of the Tribunal's new *Rules of Procedure*. When the drafting of the new rules is completed and reviewed by Department of Justice legal drafters, the Tribunal will seek formal approval of the new rules, through the Minister of Agriculture and Agri-food, before the federal Cabinet. It is hoped that the new rules will come into force in the coming fiscal year, when they are registered as an official statutory instrument.

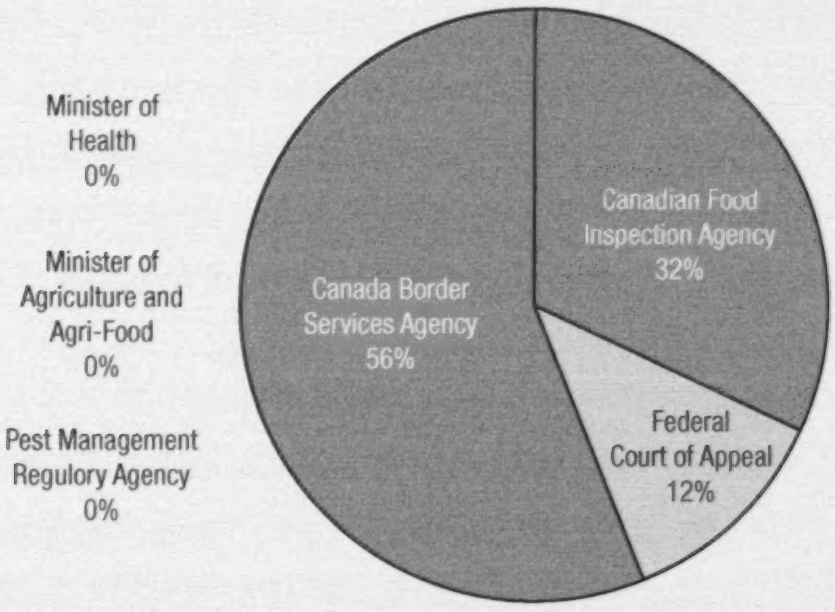
Creation of the Administrative Tribunals Support Service of Canada

The Tribunal has worked tirelessly to maintain a track record of excellence, sustainability, and efficiency. Fiscal year 2014-2015 offers the Tribunal the opportunity to take advantage of structural and procedural changes to further improve its service to Canadians. On February 11, 2014, the Government of Canada introduced legislation which would create an Agency called the Administrative Tribunals Support Service of Canada (ATSSC). When this legislation comes into force, which is forecast for the 2014-2015 fiscal year, all services and personnel, other than the actual members (decision-makers) of the Tribunal, will be transferred to the ATSSC, and then provided to the Tribunal from the new agency. The ATSSC will provide all services and personnel to 11 federal administrative tribunals. Despite this change, delivery of Tribunal services to litigants and to stakeholders will remain unchanged. Applicants will continue to be able to file their Requests for Review to the same Tribunal address and can expect the same service standards from the Tribunal as in the past. While certain challenges are likely to flow from the transfer of services and personnel to the ATSSC, such as the requirement to establish and nurture new relationships with ATSSC managers and support staff, the core activities of the Tribunal will remain unchanged. It is quite likely that adherence with the new agency will also create opportunities for the Tribunal to pool its resources in order to consolidate back-office functions, such as finance and human resources in order to achieve further cost savings and leverage expertise. As a small tribunal, the ability to have greater access to specialised legal and support services, as well as being able to leverage the collective memories and knowledge of a much larger organisation is expected to provide needed guidance in coming to solutions concerning many of the pressing issues to be addressed by this administrative tribunal in the future.

Personnel of the Tribunal in 2013-2014

Section 5: Tables and Graphs

Source of Work Coming to the Tribunal by Issuing Authority in 2013-2014


Minister of Health 0%
Minister of Agriculture and Agri-Food 0%
Pest Management Regulory Agency 0%
Canadian Food Inspection Agency 32%
Canada Border Services Agency 56%
Federal Court of Appeal 12%

2013-2014 Decisions issued by Tribunal = 43

Tribunal Caseload by Total Active Cases, Admissible Cases and Decisions

	2013-2014	2012-2013	2011-2012
Total Active Cases	**111**	**122**	**95**
Cases which were deemed inadmissible by the Tribunal	10	9	16
Total Admissible Cases before the Tribunal	**101**	**113**	**79**
Cases for which a hearing was requested	74	73	52
Hearing not yet scheduled	22	35	18
Hearing scheduled	9	6	10
Hearing completed awaiting decision	1	6	0
Cases withdrawn prior to a hearing	12	8	10
Cases withdrawn at or after hearing	0	1	0
Cases for reconsideration (FCA)	5	0	0
Hearing cases where decision issued	25	17	14

(Cont'd) Tribunal Caseload by Total Active Cases, Admissible Cases and Decisions

Cases where parties proceeded by written case alone	27	40	27
Cases not yet assigned	9	5	2
Cases assigned, awaiting decision	2	11	6
Cases withdrawn	3	11	7
Written cases where decision issued	13	13	12

Total First Instance Decisions by the Tribunal	**38**	**30**	**26**
Hearing	25	17	14
Dismissed (decision of Agency upheld)	20	10	8
Allowed (decision of Agency overturned)	5	4	5
Dismissed (decision of Minister upheld)	0	0	0
Allowed (decision of Minister overturned)	0	3	1
Written File	13	13	12
Dismissed (decision of Agency upheld)	5	6	10
Allowed (decision of Agency overturned)	8	5	1
Dismissed (decision of Minister upheld)	0	0	0
Allowed (decision of Minister overturned)	0	2	1

FCA-Directed Reconsiderations by the Tribunal	**5**	**0**	**0**
Total Decisions Rendered by the Tribunal	**43**	**30**	**26**

Tribunal Decisions by Language, Agency and Type of Case

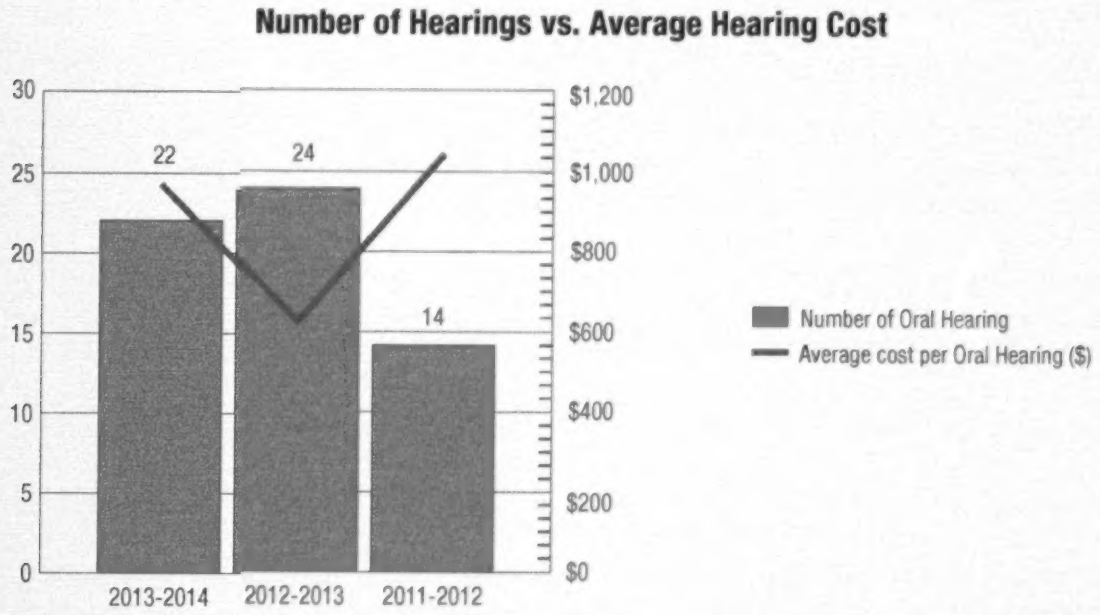
	2013-2014	2012-2013	2011-2012
Total number of decisions issued (by language)	**43**	**30**	**26**
From oral hearings	25	17	14
Conducted in English	19	10	12
Conducted in French	6	7	2
From written submissions	13	13	12
Conducted in English	11	6	8
Conducted in French	2	7	4
From reconsiderations from FCA	5	0	0
Conducted in English	2	0	0
Conducted in French	3	0	0

(Cont'd) Tribunal Decisions by Language, Agency and Type of Case

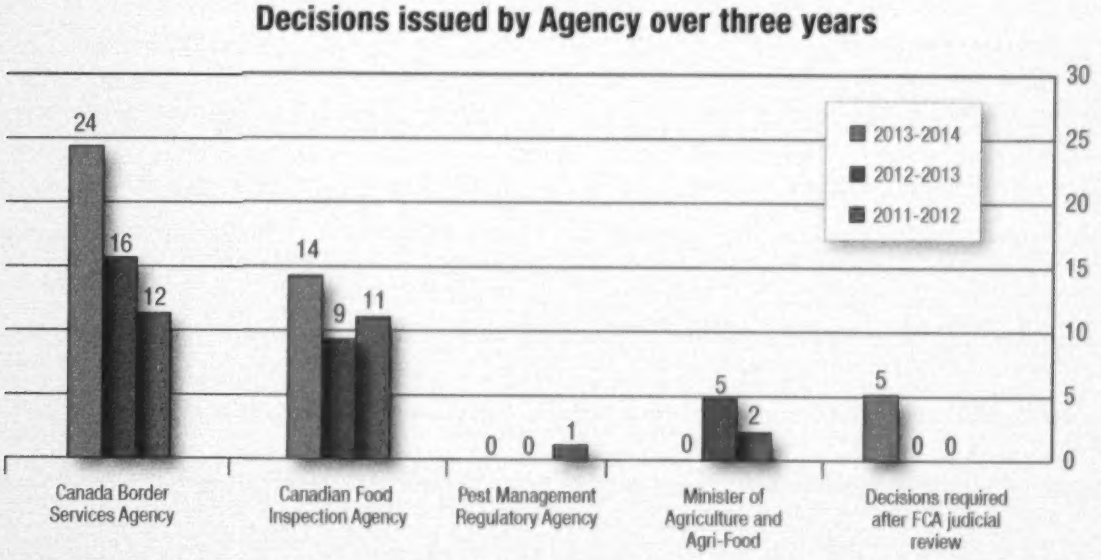
	2013-2014	2012-2013	2011-2012
Total number of decisions issued (by agency)	**43**	**30**	**26**
For review of CFIA decisions	14	9	11
Oral hearings	10	1	8
Written submissions	4	8	3
For review of CBSA decisions	24	16	12
Oral hearings	15	13	4
Written submissions	9	3	8
For review of PMRA decisions	0	0	1
Oral hearings	0	0	1
Written submissions	0	0	0
For review of Minister of AAF's decisions	0	5	2
Oral hearings	0	3	1
Written submissions	0	2	1
From reconsiderations ordered by FCA	5	0	0
Oral hearings	0	0	0
Written submissions	5	0	0

Total number of decisions (other than reconsiderations) issued (by result)	**38**	**30**	**26**
Notices of Violation from CFIA	14	9	11
Upheld by Tribunal	9	6	8
Dismissed by Tribunal	5	3	3
Notices of Violation from CBSA	24	16	12
Upheld by Tribunal	15	10	10
Dismissed by Tribunal	9	6	2
Notices of Violation from PMRA	0	0	1
Upheld by the Tribunal	0	0	0
Dismissed by the Tribunal	0	0	1
Review Decisions by Minister of AAF	0	5	2
Confirmed by Tribunal	0	0	0
Varied or set aside by Tribunal	0	5	2
Review Decisions by Minister of Health	0	0	0
Confirmed by Tribunal	0	0	0
Varied or set aside by Tribunal	0	0	0

Comparison Over Last Three Years – Oral Hearings



Comparison Over Last Three Years of Decisions by Source



Tribunal Expenditures

	2013-2014	2012-2013	2011-2012
Salaries and Benefits	350,753	342,218	328,652
Hearing & Travel Expenses	19,553	14,600	15,795
Property, Equipment Rental & Maintenance	41,715	39,286	39,119
Postage, Courier & Telecommunications	442	55	1,062
Publishing, Printing, Outreach	7,264	4,962	2,605
Training, Meetings & Conferences	5,300	7,832	3,750
Professional, Special & Contract Services	97,119	49,843	87,189
Materials, Supplies & Related Misc. Expenses	17,987	17,818	13,781
Total	**540,133**	**476,614**	**491,953**
Special Projects – Procedural Renewal Project Services	33,913	46,000	12,626
Grand Total	**574,046**	**522,614**	**504,579**

How to Contact the Tribunal

Call our office:
613-792-2087

Send us a fax:
613-792-2088

Send us an email:
infotribunal@cart-crac.gc.ca

Send us a letter:
Canada Agricultural Review Tribunal
960 Carling Avenue
Central Experimental Farm
Birch Drive, Building 60
Ottawa, Ontario
K1A 0C6

Visit our Website:
http://cart-crac.gc.ca

Follow us on Twitter:
http://twitter.com/cart_crac

The offices of the Tribunal in Ottawa